The general rule in the case of a patent ambiguity is to exclude all evidence of matter dehors the instrument. In the words of Sir Francis BACON "Ambiguitas patens is never holpen by averment * * * for that were to make all deeds hollow * * * and in effect to pass without deed what the law appointeth shall not pass but by deed." *Throckmorton* v. *Moon,* 10 Ohio 43; *Coker* v. *Roberts,* 71 Tex. 597; *Fuller* v. *Fellows,* 30 Ark. 657; *Palmer* v. *Albee,* 59 Ia. 429. But there is a difference between the description of a grantee which is inherently uncertain and indeterminate, and one wherein the description is incomplete and uncertain. Evidence dehors the instrument is not admissible in the former. *Hunt* v. *Talles,* 75 Vt. 48, 52 Atl. 1042; *Booker* v. *Tarwater,* 138 Ind. 385; *Thomas* v. *Marshfield,* 10 Pick. (Mass.) 364. Where, however, as in the instant case, the description of the grantee is merely imperfect and uncertain because incomplete, extrinsic evidence is admissible, for the description used is capable of being satisfied in more ways than one. This does not vary the terms of the deed but makes complete that which was imperfect by applying the terms to the grantee erroneously described. *Fletcher* v. *Mansur,* 5 Ind. 267; *Price* v. *Page,* 4 Ves. Jr. 679; *Leach* v. *Dodson,* 64 Tex. 185; *Holmes* v. *Moon,* 7 Heisk. (Tenn.) 506; *LeVie* v. *Tooze,* 43 Ore. 590; *Burrows* v. *Turner,* 24 Wend. (N. Y.) 276; *Lynn* v. *Risberg,* 2 Dall. (Pa.) 180.

EVIDENCE—STANDARDS OF COMPARISON OF HANDWRITING.—In a trial for forgery, where it was sought to show by an expert witness that certain fraudulent alterations in the valuation list of a town were in the handwriting of the defendant, *held,* that a deed proved to have been written by the accused was admissible as a standard of comparison of handwriting. *Commonwealth* v. *Segee* (Mass. 1914) 106 N. E. 173.

The generally accepted rule is to allow an expert witness to use as a standard of comparison with the writing in question, any other writing of the accused admitted to be genuine in open court, or any other instrument legitimately in the case, as pleadings or affidavits. *Wagoner* v. *Ruply,* 69 Tex. 700; *Miles* v. *Loomis et al.,* 75 N. Y. 288; *Himrod* v. *Gilmore,* 147 Ill. 293; *State* v. *DeGraff,* 113 N. C. 688; *First National Bank* v. *Robert,* 41 Mich. 709; *State* v. *David,* 131 Mo. 380. But there is a clear conflict of authority as to whether writings otherwise irrelevant can be received in evidence for the sole purpose of establishing a standard for comparison. The common law rule, which is followed in some states, excludes such writings, as the question of their genuineness raises collateral issues, thereby confusing the jury. *Doe* v. *Suckermore,* 5 Ad. & El. 703; *Doe* v. *Newton,* 5 Ad. & El. 514; *Washington* v. *State,* 143 Ala. 62, 39 So. 388; *State* v. *Clinton,* 67 Mo. 380; *Randolph* v. *Loughlin,* 48 N. Y. 456; *Hanley* v. *Gandy,* 28 Tex. 211; *Weidman* v. *Synes,* 116 Mich. 619. Other states by judicial action, without the aid of statute, allow writings whether otherwise relevant or not to be used as standards upon proof of their genuineness. But these states leave the question of the genuineness of the specimen offered to the judge for determination, thereby obviating a confusion of issues and meeting the common law objection. *Rowell* v. *Fuller,* 59 Vt. 688; *University of Illinois*

v. *Spalding,* 71 N. H. 163; *State* v. *Thompson,* 80 Me. 194; *Moody* v. *Rowell,* 17 Pick. (Mass.) 490; *Johnson* v. *Commonwealth,* 102 Va. 927. When the question is left to the judge, the genuineness of the standard offered for comparison must be established to his satisfaction by clear and positive proof. *Bragg* v. *Colwell,* 19 Ohio St. 407; *White* v. *White,* 21 Vt. 256; *Commonwealth* v. *Eastman,* 1 Cush. (Mass.) 217. In *People* v. *Molineux,* 168 N. Y. 264, 328, the court lays down the rule that in civil cases the judge must be satisfied of the genuineness of the specimen "by a fair preponderence of the evidence; in criminal cases beyond a reasonable doubt." By the Act of 17 & 18 Vict. c. 125 § 27, allowing "comparison of a disputed writing with any other writing proved to the satisfaction of the judge to be genuine" the common law rule was abrogated in England. Statutes similar to this are common in this country: CALIFORNIA, C. C. P., § 1944; MONTANA, C. C. P., § 3235; NEW YORK LAWS, 1880 c. 36, § 1; BIRDSEYE'S REV. ST., p. 1281; EVIDENCE ACT, § 91.

EXTRADITION—GROUNDS.—Petitioner was acquitted of murder in New York and was confined in a state institution for the insane from whence he escaped to New Hampshire. Extradition papers from New York were honored by the Governor of New Hampshire and petition for a writ of habeas corpus was brought to test the legality of the extradition. *Held,* in granting the writ; in order to have extradition there must be a person, a crime and a flight. Person means a responsible person, and when upon the face of the papers it appears that the person escaped from a custody based on insanity, the presumption arises that the person is still insane. The power of interstate extradition does not extend to return from a flight from guardianship custody, based on a decree of insanity, idiocy or irresponsibility or for process in the nature of civil process invoked for parental and protective purposes. The flight must be from a crime, and this does not include a flight from confinement. *Ex Parte Thaw,* (D. C. 1914) 214 Fed. 423.

This case presents an entirely new point for decision. The extradition power is conferred by the Constitution and so the only question is that of due process. The theory of the State of New York was based on the relation of guardian and ward, but in the whole history of extradition no one has ever succeeded in extending its operation further than flight from the consequences of a crime. *Pooley* v. *Whetham,* 15 Ch. Div. 435; *Roberts* v. *Reilly,* 116 U. S. 435. In cases of idiocy and lunacy other means have always been provided. *Norris* v. *Seed,* 3 Exch. 782, 53 Vict. c. 5, §§ 86, 89. This argues against the extension. The extradition power is in derogation of the common law and of an arbitrary and autocratic nature, and hence has always been very strictly construed and courts have used every means possible not to widen its scope. PIGGOT, EXTRADITION, 5. The papers must charge with particularity and certainty a crime and a responsible person. Where the papers describe a person as insane the intent and knowledge necessary to commit a crime can scarcely be presumed to exist. *Langdon* v. *People,* 133 Ill. 382. So it must follow that such papers are incomplete. As to flight it is universally held that flight in the constitutional sense must be from the